

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COLBY GOROG, JOSHUA FLINT,
LOUIS ROBINSON, and MICHAEL LERRO,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

ELON MUSK and TESLA, INC.,

Defendants.

Civil Action No.: 1:22-cv-05037-AKH

**DECLARATION OF PLAINTIFFS’
ATTORNEY EVAN SPENCER IN
SUPPORT OF CROSS-MOTION
TO DISQUALIFY, SANCTION,
AND SEAL DOCUMENT**

I, Evan Spencer, pursuant to 28 U.S.C. Section 1746, hereby declare as follows:

1. I am Plaintiffs’ attorney in the above-named case.
2. I submit this declaration in support of Plaintiffs’ motion to disqualify defense and sanction defense counsel and to seal Plaintiffs’ confidential offer of settlement.
3. Defense counsel has engaged in at least four major FRCP Rule 11 violations and ethical violations of the NYRPC that warrant disqualification and monetary sanctions.
4. *First*, Defendants leaked private correspondence to the *New York Post* in June 2023.
5. This damaged my reputation and improperly impinged on Plaintiffs’ attorney-client relationship.
6. *Second*, defense counsel violated an Order of this Court when they published Plaintiffs’ confidential settlement offer as a public exhibit on the Court’s ECF.
7. *Third*, during my Zoom conference call with defense counsel, they made it clear that they were “surprised” by my Notice of Appeal and that their motion to amend and sanction was in response to the Notice of Appeal. Defendants did not file their motion to amend

because they believed they were entitled to sanctions, but to deter me and my clients from perfecting our appeal.

8. *Fourth*, Defendants' demand for \$750,000 in attorneys' fees is grossly excessive and constitutes a fraud on the Court. Defendants have provided no evidence of any basis for this demand. Clearly, defense counsel has inflated the number of hours and hourly rates of their legal services, for a handful of repetitive and substantially identical preliminary motions. This demand was submitted for the improper purpose of harassment and intimidation, to deter an appeal, and has caused my clients and I unwarranted mental and emotional distress.
9. Defendants have clearly acted in bad faith, as an earlier and near-identical motion for sanctions was denied by the Court in a July 2023 Order, where the Court found that Plaintiffs have presented "non-frivolous" and "good-faith" issues to litigate.
10. Having committed four separate major violations of FRCP Rule 11 and the NYRPC, and having a history of overbilling and misconduct, Quinn Emanuel should be disqualified and sanctioned monetarily to compensate Plaintiffs and deter such conduct in the future.

I DECLARE UNDER PENALTY OF PERJURY THAT THE
FOREGOING STATEMENT IS TRUE AND CORRECT.

SWORN TO THIS 11th DAY OF OCTOBER, 2024 BY:

s/Evan Spencer

Evan Spencer
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th Day of October, 2024, a true and correct copy of the above and foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, giving notice to all parties in this action.

/s/Evan Spencer
Evan Spencer, Esq.